

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VINCENT JOHNNY AVALOS,
Plaintiff,
v.
SARA L. KIRCHEN-ROLPH, *et al.*,
Defendants.

Case No. 1:21-cv-00084-CDB (PC)

ORDER CONSTRUING FILING AS
REQUEST FOR STATUS REPORT FROM
COURT

(Doc. 27)

Plaintiff Vincent Johnny Avalos is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action brought under 42 U.S.C. § 1983.

BACKGROUND

On September 12, 2023, the undersigned issued findings and recommendations that Plaintiff's first amended complaint ("FAC") be dismissed for failure to state a claim upon which relief can be granted. (Doc. 22).

On October 3, 2023, Plaintiff filed objections to the findings and recommendations. (Doc. 25).

Prior to her ruling to adopt or reject the findings and recommendations, on December 1, 2023, the assigned district judge was elevated to the Ninth Circuit Court of Appeals, prompting the Court to temporarily assign the case to "No District Court Judge (NODJ)" until a new district judge is appointed (the "December 1 Order"). (Doc. 26).

1 Thereafter, on December 26, 2023, Plaintiff filed a “Motion to Request the Docket Order
2 Pursuant to Federal Rules of Civil Procedure 73(b)(1).” (Doc. 27). In that filing, Plaintiff refers
3 to the December 1 Order and the language in that order reminding parties of their option to
4 consent to magistrate judge jurisdiction. *Id.* at 1. Plaintiff refers to his prior election regarding
5 consent and requests a “docket report.” *Id.* at 2.

6 **DISCUSSION**

7 As set forth in the December 1 Order, until a new district judge is assigned to this case,
8 all future filings should include the following case number: “1:21-cv-00084-NODJ-CDB.”

9 Although the undersigned is not permitted to review and cannot access any magistrate
10 judge jurisdiction consent forms filed in this case, at least one party in this case has not
11 consented to magistrate judge jurisdiction. Thus, because not all parties have consented, a
12 district judge was assigned to the case.

13 The temporary assignment of the case to “NODJ” does not require Plaintiff to re-serve
14 any previously filed pleadings merely because the case number temporarily has changed.
15 Further, any consent form previously filed by Plaintiff remains in full force and effect and a new
16 consent form need not be submitted.¹

17 **CONCLUSION AND ORDER**

18 For the forgoing reasons, Plaintiff’s filing of December 26, 2023 (Doc. 27), construed by
19 the Court as a motion for status report, is GRANTED.

20 IT IS SO ORDERED.

21 Dated: December 27, 2023

22 
23 UNITED STATES MAGISTRATE JUDGE

24
25
26
27 ¹ Plaintiff’s unrelated request concerning money being deducted from his trust account for filing
28 fees and for confirmation “that the state is not just taking the money from his books and keeping it” (Doc.
27 at 2) is not properly before this Court in any motion citing authorities (*i.e.*, statutes, rules, etc.) pursuant
to which any such relief may be granted.